

Amend 2 Cal. Code Regs. section 18707.1 to read:

**§ 18707.1. Public Generally. General Rule.**

(a) Except as provided in Government Code sections 87102.6 and 87103.5, the material financial effect of a governmental decision on a public official's economic interests is indistinguishable from its effect on the public generally if both subdivisions (b)(1) and (b)(2) of this regulation apply.

(b) Significant Segments and Indistinguishable Effects.

(1) Significant Segment. The governmental decision will affect a "significant segment" of the public generally if any of the following are affected as set forth below:

(A) Individuals. For decisions that affect the personal expenses, income, assets, or liabilities of a public official or a member of his or her immediate family, or that affect an individual who is a source of income or a source of gifts to a public official, the decision also affects:

(i) Ten percent or more of the population in the jurisdiction of the official's agency or the district the official represents; or

(ii) 5,000 individuals who are residents of the jurisdiction.

(B) Real Property. For decisions that affect a public official's interest in real property, the decision also affects:

1           **{DECISION POINT 1}** (i) Ten percent or more of all property owners or all

2 ~~homeowners~~ residential property owners in the jurisdiction of the official's agency or the district  
3 the official represents; or

4           (ii) 5,000 property owners or ~~homeowners~~ residential property owners in the jurisdiction  
5 of the official's agency.

6           (iii) For purposes of this subdivision, residential property means any real property that  
7 contains a single family home, or a multi-family structure of [two/four] units or fewer, on a  
8 single lot, or a condominium unit.

9           (C) Business Entities. For decisions that affect a business entity in which a public official  
10 has an economic interest, the decision also affects either 2,000 or twenty-five percent of all  
11 business entities in the jurisdiction or the district the official represents, so long as the effect is  
12 on persons composed of more than a single industry, trade, or profession. For purposes of this  
13 subdivision, a not for profit entity other than a governmental entity is treated as a business entity.

14           (D) Governmental Entities. For decisions that affect a federal, state or local government  
15 entity in which the public official has an economic interest, the decision will affect all members  
16 of the public under the jurisdiction of that governmental entity.

17           (E) Exceptional Circumstances. The decision will affect a segment of the population  
18 which does not meet any of the standards in subdivisions (b)(1)(A) through (b)(1)(D), however,  
19 due to exceptional circumstances regarding the decision, it is determined such segment  
20 constitutes a significant segment of the public generally.

(2) Substantially the Same Manner: The governmental decision will financially affect a public official's economic interest in substantially the same manner as it will affect the significant segment identified in subdivision (b)(1) of this regulation. The financial effect need not be identical for the official's economic interest to be considered "financially affected" in "substantially the same manner."

**{DECISION POINT 2}** (A) Comparing Financial Effects on Real Property: For a decision that affects a public official's economic interest in his or her real property, financial effects are measured in terms of the overall dollar amount of the increase or decrease in the value of the property and not by a percentage increase or decrease affecting property values as a whole.

Factors to be considered in determining the financial effect on the official's property in comparison with the financial effect on the public generally include, but are not limited to, the following:

(i) The magnitude of the financial affect of the governmental decision on the official's property as compared with other properties contained within the significant segment;

(ii) The lot size of the official's property compared with other properties contained within the significant segment (e.g., one acre versus 10 acres);

(iii) The square footage of the building space of the property compared with the square footage of the building space of other properties contained within the significant segment

1           (iv) The proximity of the official's property to the property that is the subject of the  
2 governmental decision compared with the proximity of other properties contained within the  
3 significant segment;

4           (v) The number of units/parcels owned by the official compared to others in the  
5 significant segment;

6           (vi) The physical characteristics or permitted use of the property (i.e., historical,  
7 commercial, residential) as compared to other properties in the significant segment;

8           (vii) The location of the official's property compared with the location of other  
9 properties contained within the significant segment;

10          (viii) The neighborhood in which the official's property is located is comparable to the  
11 neighborhoods in which other properties contained within the significant segment are located;

12          (ix) The quality of the structure contained on the official's property compared with the  
13 quality of other structures contained on properties within the significant segment;

14          (x) The current fair market value of the property as compared to other properties in the  
15 significant segment;

16          (xi) Improvements made to the official's property as compared with other properties  
17 contained within the significant segment;

18          (xii) The developmental potential or income producing potential of the real property in  
19 which the official has an economic interest compared with other properties contained within the  
20 significant segment; and

1        (xiii) The character of the effects on the neighborhood of the property in which the  
2 official has an economic interest including, but not limited to, substantial effects on: traffic,  
3 view, privacy, intensity of use, noise levels, air emissions, or similar traits of the neighborhood  
4 compared with the neighborhoods of other properties contained within the significant segment.

5        **{DECISION POINT 3}** (B) Relative Financial Effects: While a determination whether  
6 the financial effects of a governmental decision on the public generally are “substantially the  
7 same” as the financial effect of the decision on the official shall be assessed on a case-by-case  
8 basis, if the relative financial effects of the governmental decision on the official’s property and  
9 the significant segment fall within the criteria indicated below, the “substantially the same  
10 manner” element set forth in (b)(2) above applies per se. The formula below provides one  
11 method in determining financial effects that impact the “public generally” in “substantially the  
12 same manner” as the public official and is not intended as the exclusive means for making that  
13 determination.

14        (i) Step One: Determine the value of the public official’s real property affected by the  
15 governmental decision.

16        (ii) Step Two: Determine the overall dollar value of the financial effect on the public  
17 official’s real property.

18        (iii) Step Three: Determine the range of the financial effects considered to be  
19 substantially the same by multiplying the amount identified in step one by two-percent.

20        (iv) Step Four: If the financial effect of the governmental decision on the public  
21 official’s real property as determined in step two is within the range (step two amount plus or

1 minus step three amount) of the amount of the financial effect on the significant segment, the  
2 governmental decision will financially affect the public official's economic interest in  
3 substantially the same manner as it will affect the significant segment.

4 Example: If the public official's real property is valued at \$500,000, and the result of the  
5 governmental decision will increase the value of the official's property by \$15,000, any financial  
6 effect on property owners or residential property owners in the significant segment within a  
7 range of \$10,000 of that amount (\$5,000 to \$25,000) is considered substantially the same.  
8 (\$500,000 property value (step one) X 2% (step three) = \$10,000 (range); \$15,000 increase (step  
9 two) + or - \$10,000 (step three) = \$5,000-\$25,000). Financial effects on all properties within the  
10 significant ranging from \$5,000 to \$25,000 are considered substantially the same under this  
11 example.

12 **{DECISION POINT 4}** (C) In addition to the provisions of subsection 18707.1(b)(2)(B)  
13 above, if the effects of a governmental decision result from a general percentage increase or  
14 decrease affecting the values of all properties within the significant segment by the same  
15 percentage amount, the financial effects of the governmental decision are considered financially  
16 the same irrespective of the values of the properties.

17 COMMENT: The term "affect all members of the public" as used in subdivision (b)(1)(D)  
18 above, is intended to cover decisions affecting the public in general but to exclude decisions  
19 ~~which~~ that uniquely benefit a public official.

20 NOTE: Authority cited: Section 83112, Government Code.

21 Reference: Section 87103, Government Code.

